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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/679,308	10/06/2000	Seiji Nonaka	2000 1402	9619

7590 03/12/2003

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EXAMINER

MERCADO, JULIAN A

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 03/12/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/679,308

Applicant(s)

NONAKA ET AL.

Examiner

Julian A. Mercado

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1,3-8,10 and 121-123 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-8,10 and 121-123 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Remarks

This Office Action is responsive to applicant's amendment filed December 23, 2002.

Claim 2 has been canceled per applicant's amendment.

The following have been obviated by applicant's amendment:

The rejection of claims 1 and 5 under 35 U.S.C. 102(b) based on JP 50-44461 has been withdrawn.

The rejection of claims 1, 3, 6, 7, 10, 122 and 123 under 35 U.S.C. 102(b) based on Fraioli et al. has been withdrawn.

The rejection of claims 4, 8, 9 and 121 under 35 U.S.C. 103(a) based on Fraioli and Hart et al. has been withdrawn.

The rejection of claim 5 under 35 U.S.C. 103(a) based on Fraioli and Belloni has been withdrawn.

The information disclosure statement (IDS) re-submitted on December 23, 2002 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-8, 10 and 121-123 are rejected under 35 U.S.C. 102(e) as being anticipated by Okamura et al. (U.S. Pat. 6,191,935 B1).

Regarding claims 1-8, 10 and 121-123, Okamura teaches an electrode metal [1] for a double-layer electrode of a double-layer capacitor comprising a valve metal such as aluminum having carbon particles [11] partially embedded in an oxide surface, i.e. passive film surface [1a] of the valve metal and projected therefrom to expose the particles from said surface. See col. 2 line 29-34, col. 3 line 59-65 and Figure 2(b):

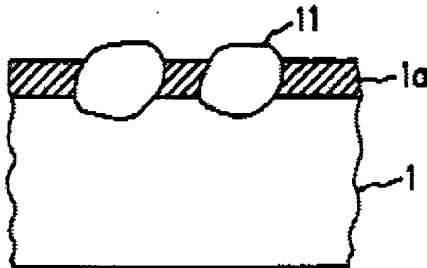


FIG.2(b)

The passive film and carbon particles protects the surface of the valve metal electrode [1] from attack by the electrolyte. (col. 4 line 13-17) The electrode metal is a sheet of aluminum having dimensions 40 mm x 40 mm x 3 mm. (col. 4 line 28) The carbon particles are activated carbon particles such as graphite having high conductivity and low resistance. (col. 4 line 46, Table 1 and claim 5)

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Okamura et al. as applied to claims 1, 3-8, 10 and 121-123 above.

As discussed in the previous Office Action, as to the carbon particles having a mean diameter in the range of 0.01 to 50 μm , absent of unexpected results it is asserted that these are optimizable parameters for result-effective variables. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980) The diameter of the carbon particles are considered result-effective as it directly correlates to the degree in which the carbon is made active.

Response to Arguments

Applicant's arguments with respect to the present claims have been considered but are moot in view of the new ground(s) of rejection.

The examiner notes that Okamura et al. has a U.S. filing date of October 1998 which is later than the January 1998 foreign priority date claimed by applicant in connection with the first two Japanese priority applications JP 10-011077 and 10-011078. However, applicant is reminded that one cannot rely upon these foreign priority papers to overcome the present rejection based on Okamura et al. because a translation of said foreign priority papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian A. Mercado whose telephone number is (703) 305-0511. The examiner can normally be reached on Monday through Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (703) 308-2383. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding

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should be directed to the receptionist whose telephone number is (703) 308-0661.

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March 7, 2003


Patrick Ryan
Supervisory Patent Examiner
Technology Center 1700